

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PASTOR ISABEL VELA,

Plaintiff,

v.

TULARE COUNTY DISTRICT
ATTORNEY,

Defendant.

Case No. 1:23-cv-01709-KES-BAM

FINDINGS AND RECOMMENDATIONS
REGARDING DISMISSAL OF ACTION FOR
FAILURE TO PROSECUTE

(Doc. 7)

FOURTEEN-DAY DEADLINE

I. Background

Plaintiff Pastor Isabel Vela (“Plaintiff”), proceeding *pro se* and *in forma pauperis*, initiated this civil action on December 12, 2023. (Doc. 1.) On June 4, 2025, the Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915(e)(2) and granted her leave to amend within thirty (30) days. (Doc. 7.) The Court’s screening order was returned as “Undeliverable, Vacant” on June 23, 2025.

II. Discussion

Plaintiff is required to keep the Court apprised of her current address at all times. Local Rule 183(b) provides:

Address Changes. A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a

1 plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and
2 if such plaintiff fails to notify the Court and opposing parties within thirty (30) days
3 thereafter of a current address, the Court may dismiss the action without prejudice
for failure to prosecute.

4 Federal Rule of Civil Procedure 41(b) also provides for dismissal of an action for failure to
5 prosecute.¹

6 Plaintiff's address change was due no later than July 23, 2025. Plaintiff has failed to file a
7 change of address or otherwise update the Court. The Court will therefore recommend that this
8 action be dismissed without prejudice for failure to prosecute.

9 "In determining whether to dismiss an action for lack of prosecution, the district court is
10 required to weigh several factors: (1) the public's interest in expeditious resolution of litigation;
11 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public
12 policy favoring disposition of cases on their merits; and (5) the availability of less drastic
13 sanctions." *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988) (internal quotation marks and
14 citation omitted); *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217,
15 1226 (9th Cir. 2006). These factors guide a court in deciding what to do and are not conditions
16 that must be met in order for a court to take action. *In re PPA*, 460 F.3d at 1226 (citation
17 omitted).

18 Given Plaintiff's failure to respond to this Court's order, the need for expeditious
19 resolution of litigation and the Court's need to manage its docket weigh in favor of dismissal. *In*
20 *re PPA*, 460 F.3d at 1227. The third factor, risk of prejudice to the defendant, also weighs in
21 favor of dismissal, as a presumption of injury arises from the occurrence of unreasonable delay in
22 prosecuting an action. *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor
23 usually weighs against dismissal because public policy favors disposition on the merits.
24 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002). However, "this factor lends little
25 support to a party whose responsibility it is to move a case toward disposition on the merits but
26 whose conduct impedes progress in that direction," which is the case here. *In re PPA*, 460 F.3d at

27 _____
28 ¹ Courts may dismiss actions *sua sponte* under Rule 41(b) based on the plaintiff's failure to prosecute.
Hells Canyon Pres. Council v. U. S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (citation omitted).

1 1228 (citation omitted). More importantly, given the Court's apparent inability to communicate
2 with Plaintiff, there are no other reasonable alternatives available to address Plaintiff's failure to
3 prosecute this action and her failure to apprise the Court of her current address. *Id.* at 1228–29;
4 *Carey*, 856 F.2d at 1441.

5 **III. Conclusion and Recommendation**

6 Based on the above, it is HEREBY RECOMMENDED that this action be dismissed
7 without prejudice based on Plaintiff's failure to prosecute. Fed. R. Civ. P. 41(b); L.R. 183(b).

8 These Findings and Recommendations will be submitted to the United States District
9 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
10 **fourteen (14) days** after being served with these Findings and Recommendations, Plaintiff may
11 file written objections with the court. The document should be captioned “Objections to
12 Magistrate Judge’s Findings and Recommendations.” **Objections, if any, shall not exceed**
13 **fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page**
14 **number if already in the record before the Court. Any pages filed in excess of the 15-page**
15 **limit may not be considered.** Plaintiff is advised that failure to file objections within the
16 specified time may result in the waiver of the “right to challenge the magistrate’s factual
17 findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter*
18 *v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

19
20 IT IS SO ORDERED.
21

22 Dated: August 5, 2025

23 /s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE
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